

**§ 194.65 Notice of proposed rulemaking for modification or revocation.**

(a) If the Administrator determines that any changes in activities or conditions pertaining to the disposal system depart significantly from the most recent compliance application, the Agency will publish a Notice of Proposed Rulemaking in the FEDERAL REGISTER announcing the Administrator's proposed decision on modification or revocation, and soliciting comment on the proposal.

(b) Any comments received on the notice will be made available for inspection in the dockets established pursuant to § 194.67.

**§ 194.66 Final rule for modification or revocation.**

(a) The Administrator will publish a Final Rule in the FEDERAL REGISTER announcing the Administrator's decision on modification or revocation.

(b) A document summarizing significant comments and issues arising from comments received on the Notice of Proposed Rulemaking as well as the Administrator's response to such significant comments and issues will be prepared and will be made available for inspection in the dockets established pursuant to § 194.67.

**§ 194.67 Dockets.**

The Agency will establish and maintain dockets in the State of New Mexico and Washington, DC. The dockets will consist of all relevant, significant information received from outside parties and all significant information considered by the Administrator in certifying whether the WIPP facility will comply with the disposal regulations, in certifying whether or not the WIPP facility continues to be in compliance with the disposal regulations, and in determining whether compliance certification should be modified, suspended or revoked.

**APPENDIX A TO PART 194—CERTIFICATION OF THE WASTE ISOLATION PILOT PLANT'S COMPLIANCE WITH THE 40 CFR PART 191 DISPOSAL REGULATIONS AND THE 40 CFR PART 194 COMPLIANCE CRITERIA**

In accordance with the provisions of the WIPP Compliance Criteria of this part, the Agency finds that the Waste Isolation Pilot Plant ("WIPP") will comply with the radioactive waste disposal regulations at part 191, subparts B and C, of this chapter. Therefore, pursuant to Section 8(d)(2) of the WIPP Land Withdrawal Act ("WIPP LWA"), as amended, the Administrator certifies that the WIPP facility will comply with the disposal regulations. In accordance with the Agency's authority under § 194.4(a), the certification of compliance is subject to the following conditions:

*Condition 1: § 194.14(b), Disposal system design, panel closure system.* The Department shall implement the panel seal design designated as Option D in Docket A-93-02, Item II-G-1 (October 29, 1996, Compliance Certification Application submitted to the Agency). The Option D design shall be implemented as described in Appendix PCS of Docket A-93-02, Item II-G-1, with the exception that the Department shall use Salado mass concrete (consistent with that proposed for the shaft seal system, and as described in Appendix SEAL of Docket A-93-02, Item II-G-1) instead of fresh water concrete.

*Condition 2: § 194.22: Quality Assurance.* The Secretary shall not allow any waste generator site other than the Los Alamos National Laboratory to ship waste for disposal at the WIPP until the Agency determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3) and 194.24(c)(5) for waste characterization activities and assumptions. The Agency will determine compliance of site-specific quality assurance programs at waste generator sites using the process set forth in § 194.8.

*Condition 3: § 194.24: Waste Characterization.* The Secretary may allow shipment for disposal at the WIPP of legacy debris waste at the Los Alamos National Laboratory ("LANL") that can be characterized using the systems and processes inspected by the Agency and documented in Docket A-93-02, Item II-I-70. The Secretary shall not allow shipment of any waste from any additional LANL waste stream(s) or from any waste generator site other than LANL for disposal at the WIPP until the Agency has approved the processes for characterizing those waste streams for shipment using the process set forth in § 194.8.

*Condition 4: § 194.43, Passive institutional controls.*